

# UNIT 18 SUBCONTRACTING REQUIREMENTS

*September 2002*

*(FAC 2001-09)*

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<b>Overall Duty</b>	Establish appropriate subcontracting and make-or-buy requirements.
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<b>Conditions</b>	Given forecast requirements, written or unwritten acquisition plan, market research, Procurement Request, other related documents, and relevant presolicitation business decisions.
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<b>Overall Standard</b>	Incorporate the appropriate subcontracting and make-or-buy program provisions and clauses in the solicitation. When appropriate, establish acceptable Subcontracting Plans and/or make-or-buy programs for contract performance.
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## **Part A: Establishing Subcontracting Requirements**

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<b>Sub-Duty</b>	Incorporate subcontracting requirements in the solicitation.
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<b>Sub-Duty Standard</b>	Incorporate the applicable provisions and clauses related to subcontracting.
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## **Part B: Evaluating Subcontracting Plans**

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<b>Sub-Duty</b>	Approve or disapprove Subcontracting Plans for inclusion in the contract.
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<b>Additional Conditions</b>	Given an offered Subcontracting Plan.
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<b>Sub-Duty Standard</b>	Approved Subcontracting Plans must provide the maximum practicable opportunities for small business, veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns to obtain subcontracts.
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# UNIT 18 SUBCONTRACTING REQUIREMENTS

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## **Part C: Make-Or-Buy Programs**

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<b>Sub-Duty</b>	Negotiate a make-or-buy program.
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<b>Additional Conditions</b>	Given an offered make-or-buy program.
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<b>Sub-Duty Standard</b>	In preparing prenegotiation positions on the submitted program, account for all factors listed in FAR 15.407-2. Correctly determine whether the negotiated program must be incorporated in the contract.
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## Policies

<i>FAR</i>	<i>Agency Suppl.</i>	<i>Subject</i>
15.304(c)(5)		Requirement to include small business subcontracting participation in subcontract plans as an evaluation factor when bundling occurs.
15.407-2		Make-or-buy programs.
19.7		The small business subcontracting program.
19.1203		Incentive subcontracting with small disadvantaged business concerns.
26.1		Indian incentive program.
52.219-8		Utilization of small business concerns.
52.219-9		Small business Subcontracting Plan.
52.219-10		Incentive subcontracting program.
52.219-25		Small disadvantaged business participation program – disadvantaged status and reporting.
52.219-26		Small disadvantaged business participation program – incentive subcontracting.
52.226-1		Utilization of Indian organizations and Indian-owned economic enterprises.

## Other KSA's

1. Knowledge of sources of information on markets and market research techniques to determine realistic small business and small disadvantaged business subcontracting goals.
2. Knowledge of business factors that affect subcontracting decisions.
3. Ability to demonstrate the attention to detail necessary to identify and evaluate proposed subcontracting decisions.
4. Ability to evaluate offeror/contractor calculations related to small business participation in a contract effort.
5. Ability to apply the rules related to small business subcontracting to specific contract decisions.
6. Ability to communicate orally and in writing with Government and industry representatives on the issues related to subcontracting with small business concerns.
7. Ability to maintain the honesty and integrity of the acquisition process.

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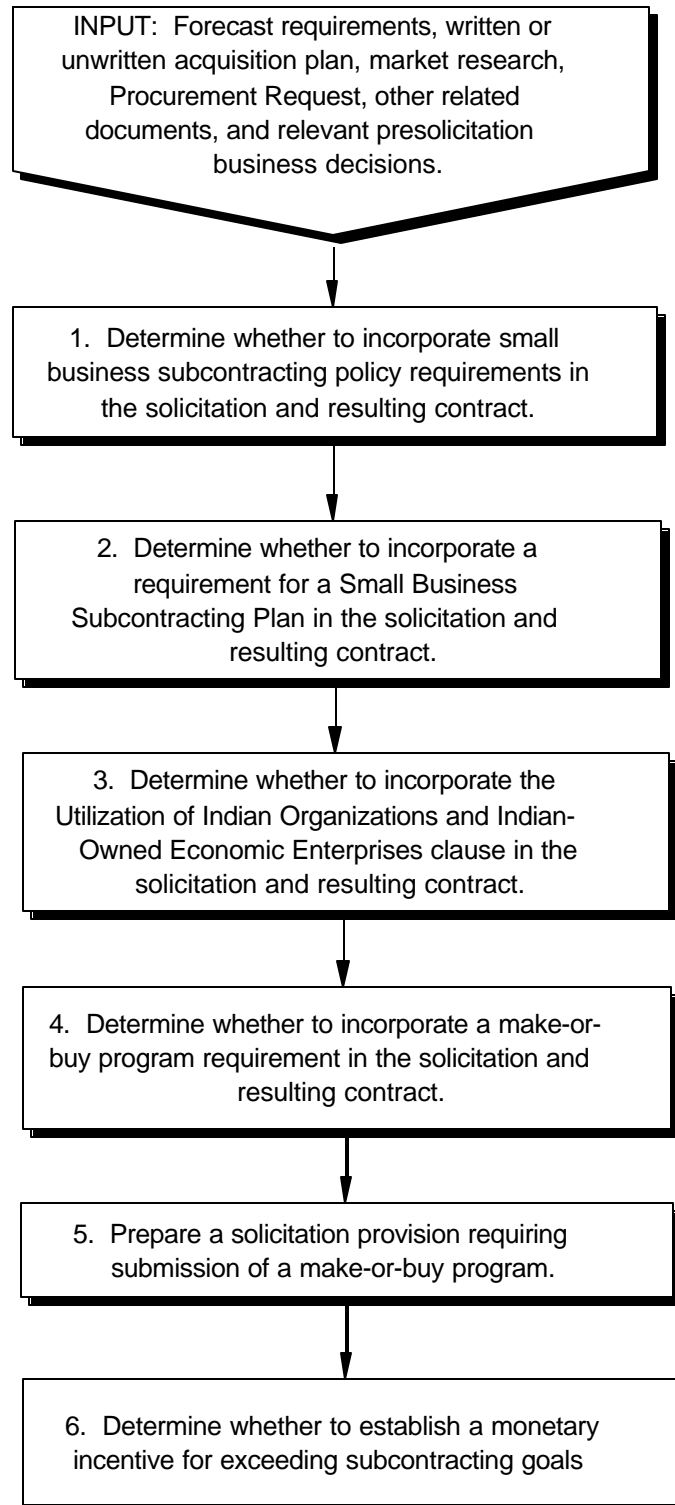
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**Other Policies and References (Annotate As Necessary):**

# UNIT 18 SUBCONTRACTING REQUIREMENTS

## Part A: Establishing Subcontracting Requirements

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# UNIT 18 SUBCONTRACTING REQUIREMENTS

## Part A: Establishing Subcontracting Requirements

September 2002

Tasks	Related Standards
1. Determine whether to incorporate small business subcontracting policy requirements in the solicitation and resulting contract.	<p>Insert the Utilization of Small Business Concerns clause (FAR 52.219-8) in the solicitation and contract unless:</p> <ul style="list-style-type: none"> <li>• The contract amount is not expected to exceed the simplified acquisition threshold;</li> <li>• A personal services contract is contemplated; or</li> <li>• The contract, together with all its subcontracts, is to be performed entirely outside of any State, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.</li> </ul>
2. Determine whether to incorporate a requirement for a Small Business Subcontracting Plan in the solicitation and resulting contract.	<p>When contracting by negotiation, insert the Small Business Subcontracting Plan clause (FAR 52.219-9) when the solicitation/contract:</p> <ul style="list-style-type: none"> <li>• Offers subcontracting possibilities as outlined in FAR 19.705-2(b). (Note that a determination that no subcontracting possibilities exist must be approved at a level above the Contracting Officer and documented in the contract file);</li> <li>• Is expected to exceed \$500,000 (\$1,000,000 for construction of any public facility);</li> <li>• Includes the Utilization of Small Business Concerns clause FAR 52.219-8);</li> <li>• Is not set aside or to be accomplished under the 8(a) program; and</li> <li>• The offeror is not a small business.</li> </ul> <p>When contracting by sealed bidding rather than by negotiation, use the clause with its Alternate I.</p> <p>When contracting by negotiation, and Subcontracting Plans are required with initial proposals, use the clause with its Alternate II.</p> <p>If a Subcontracting Plan is required, provide the SBA Resident Procurement Center Representative time to review the solicitation and submit advisory findings before issuance.</p>

# UNIT 18 SUBCONTRACTING REQUIREMENTS

## Part A: Establishing Subcontracting Requirements

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Tasks	Related Standards
3. Determine whether to incorporate the Utilization of Indian Organizations and Indian-Owned Economic Enterprises clause in the solicitation and resulting contract.	<p>In civilian agencies, the Utilization of Indian Organizations and Indian-Owned Economic Enterprises (FAR 52.226-1) clause may be incorporated only if:</p> <ul style="list-style-type: none"><li>• The Contracting Officer believes that Subcontracting possibilities exist for Indian organizations or Indian-owned economic enterprises; and</li><li>• Funds are available for any increased costs as described in paragraph (b)(2) of the clause.</li></ul>
4. Determine whether to incorporate a make-or-buy program requirement in the solicitation and resulting contract.	<p>The Government may reserve the right to review and agree on the contractor's make-or-buy program when necessary to ensure negotiation of reasonable contract prices, satisfactory performance, or implementation of socioeconomic policies.</p> <p>Make-or-buy program may be required for a negotiated acquisition with an estimated contract value is \$10 million or more when:</p> <ul style="list-style-type: none"><li>• Cost or pricing data are required;</li><li>• The proposed contract is not for research or development; and</li><li>• If prototypes or hardware are involved, significant follow-on production is anticipated.</li></ul> <p>Make-or-buy programs may be required for a negotiated acquisition with an estimated contract value under \$10 million only if the Contracting Officer:</p> <ul style="list-style-type: none"><li>• Determines that the information is necessary; and</li><li>• Documents the reasons in the contract file.</li></ul>

# UNIT 18 SUBCONTRACTING REQUIREMENTS

## Part A: Establishing Subcontracting Requirements

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Tasks	Related Standards
5. Prepare a solicitation provision requiring submission of a make-or-buy program.	<p>When prospective contractors are required to submit proposed make-or-buy programs, the solicitation must include:</p> <ul style="list-style-type: none"><li>• A statement that the program and required supporting information must accompany the offer; and</li><li>• A description of factors to be used in evaluating the proposed program.</li></ul> <p>Confine the items and work that must be covered by the make-or-buy program to those major items or work efforts that normally would require company management make-or-buy review.</p> <p>The offeror's program should include or be supported by the following information:</p> <ul style="list-style-type: none"><li>• A description of each major item or work effort.</li><li>• Categorization of each major item or work effort as "must make," "must buy," or "can either make-or-buy."</li><li>• For each item or work effort categorized as "can either make-or-buy," a proposal either to "make" or to "buy."</li><li>• Reasons for categorizing items and work efforts as "must make" or "must buy," and proposing to "make" or to "buy" those categorized as "can either make-or-buy."</li><li>• Designation of the plant or division proposed to make each item or perform each work effort, and a statement as to whether the existing or proposed new facility is in or near a labor surplus area.</li><li>• Identification of proposed subcontractors, if known, and their location and size status.</li><li>• Any recommendations to defer make-or-buy decisions.</li><li>• Any other information the contracting officer requires in order to evaluate the program.</li></ul>



# UNIT 18 SUBCONTRACTING REQUIREMENTS

## Part A: Establishing Subcontracting Requirements

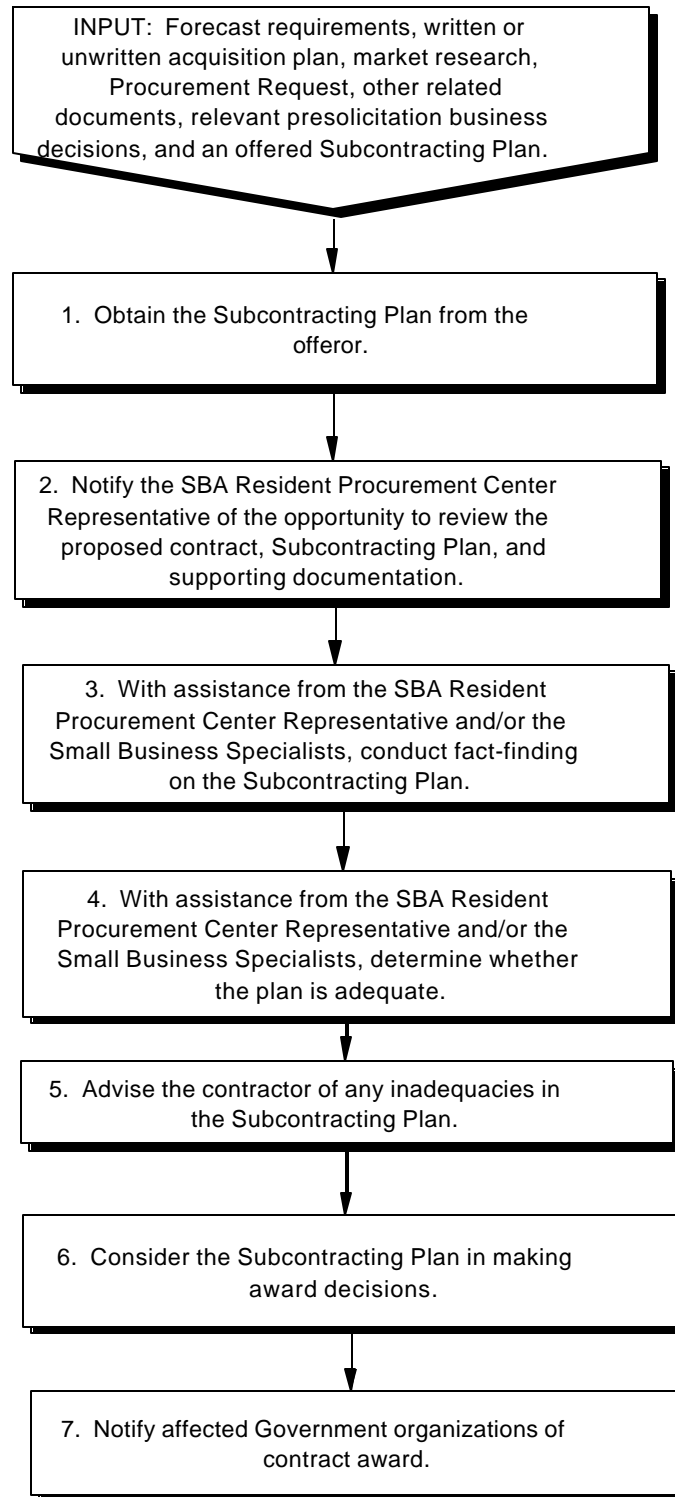
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Tasks	Related Standards
6. Determine whether to establish a monetary incentive for exceeding subcontracting goals.	<p>When contracting by negotiation, the solicitation and resulting contract may include:</p> <ul style="list-style-type: none"><li>• A clause substantially the same as the Incentive Subcontracting Program clause (FAR 52.219-10) when:<ul style="list-style-type: none"><li>- A subcontracting plan is required;</li><li>- A monetary incentive is necessary to increase subcontracting opportunities for small business, veteran-owned small business (including service-disabled veteran-owned small business), HUBZone small business, and women-owned small business concerns, and is commensurate with the efficient and economical performance of the contract; and</li><li>- The contract is not a cost-plus-award-fee (CPAF) contract that includes the small business subcontracting factors above in determining award fee.</li></ul></li><li>• A clause substantially the same as the Small Disadvantaged Business Participation Program--Incentive Subcontracting clause (FAR 52.219-26) when:<ul style="list-style-type: none"><li>- The solicitation/contract includes the Small Disadvantaged Business Participation Program--Disadvantaged Status and Reporting clause (FAR 52.219-25);</li><li>- Authorized under FAR 19.1203; and</li><li>- The contract is not a CPAF contract that includes the small business subcontracting factors above in determining award fee.</li></ul></li><li>• Small business, veteran-owned small business (including service-disabled veteran-owned small business), HUBZone small business, and women-owned small business subcontracting as one of the factors for determining CPAF contract award fee.</li></ul>

# UNIT 18 SUBCONTRACTING REQUIREMENTS

## Part B: Evaluating Subcontracting Plans

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# UNIT 18 SUBCONTRACTING REQUIREMENTS

## Part B: Evaluating Subcontracting Plans

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Tasks	Related Standards
1. Obtain the Subcontracting Plan from the offeror.	<p>Obtain the Subcontracting Plan within the timeframe required by the solicitation (e.g., with initial offers or at any time prior to contract award). Do not require a small business concern to submit a Subcontracting Plan.</p> <p>A firm may establish, on a plant or division-wide basis, a master plan that contains all the required Subcontracting Plan elements except goals.</p> <ul style="list-style-type: none"><li>• A master plan must be effective for a 3-year period after Contracting Officer approval; however, a firm should maintain and update its master plan.</li><li>• Changes required to update a master plan are not effective until approved by the Contracting Officer. When incorporated in an individual plan, a master plan applies to that contract throughout its life.</li></ul> <p>A commercial plan is a Subcontracting Plan (including goals) that covers the offeror's fiscal year and that applies to the entire production of commercial items sold by either the entire company or a portion thereof. It is the preferred type of plan for contractors furnishing commercial items. The contractor must:</p> <ul style="list-style-type: none"><li>• Submit the commercial plan to either:<ul style="list-style-type: none"><li>- The first Contracting Officer awarding a contract subject to the plan during the contractor's fiscal year, or</li><li>- The Contracting Officer responsible for the ongoing contract with a commercial plan that has the latest completion date.</li></ul></li><li>• Submit a new commercial plan, 30 working days before the end of the fiscal year, to the Contracting Officer responsible for the uncompleted Government contract with the latest completion date.</li><li>• Provide a copy of each approved new commercial plan to each Contracting Officer responsible for a contract subject to the plan.</li></ul>

# UNIT 18 SUBCONTRACTING REQUIREMENTS

## Part B: Evaluating Subcontracting Plans

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Tasks	Related Standards
2. Notify the SBA Resident Procurement Center Representative of the opportunity to review the proposed contract, Subcontracting Plan, and supporting documentation.	<p>Issue the notice in sufficient time to provide the representative a reasonable time to review the material and submit advisory recommendations.</p> <p>Provide a copy of the contract to the SBA Resident Procurement Center Representative, including the Subcontracting Plan and supporting documentation.</p> <p>Failure of the representative to respond in a reasonable period of time shall not delay contract award.</p>
3. With assistance from the SBA Resident Procurement Center Representative and/or the Small Business Specialists, conduct fact-finding on the Subcontracting Plan.	<p>Obtain available information such as:</p> <ul style="list-style-type: none"><li>• The offeror's past performance in awarding subcontracts for the same or similar products or services to small business, veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns;</li><li>• The performance of other contractors on similar efforts;</li><li>• The offeror's make-or-buy program, in terms of identifying potential conflicts with the proposed Subcontracting Plan;</li><li>• Subcontracting potential, given the offeror's make-or-buy policies and programs, nature of the items to be subcontracted, the known availability of small business, veteran-owned small business, service disabled veteran owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns in the area where the work is to be performed; and</li><li>• The offeror's longstanding contractual relationships with suppliers.</li></ul>

# UNIT 18 SUBCONTRACTING REQUIREMENTS

## Part B: Evaluating Subcontracting Plans

*September 2002*

Tasks	Related Standards
4. With assistance from the SBA Resident Procurement Center Representative and/or the Small Business Specialists, determine whether the plan is adequate.	<p>Check the submitted plan against the elements, information, goals and assurances required by FAR 19.704 and the following:</p> <ul style="list-style-type: none"><li>• Completeness, in terms of the elements, information, goals and assurances required by FAR 19.704.</li><li>• Attainability, given the following:<ul style="list-style-type: none"><li>- Previous involvement of small business concerns as prime contractors or subcontractors in similar acquisitions.</li><li>- Proven methods of involving small business concerns as subcontractors in similar acquisitions.</li><li>- Actual performance by such contractor against prior plans.</li><li>- The relative success of methods the contractor intends to use to meet the goals and requirements of the plan, as evidenced by records maintained by the contractor.</li><li>- Subcontracting opportunities commensurate with efficient and economical contract performance.</li><li>- Pool of eligible subcontractors.</li><li>- Actual performance in attaining goals specified in prior plans.</li><li>- Consistency with pricing information supplied by the offeror.</li><li>- Consistency with "make-or-buy" policy.</li></ul></li><li>• Subcontracting potential considering:<ul style="list-style-type: none"><li>? Make-or-buy policies or programs;</li><li>? The nature of the supplies or services to be subcontracted;</li><li>? The known availability of small business, veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns in the area where the work will be performed; and</li><li>? The potential contractor's long-standing contractual relationship with its suppliers.</li></ul></li></ul>

# UNIT 18 SUBCONTRACTING REQUIREMENTS

## Part B: Evaluating Subcontracting Plans

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Tasks	Related Standards
5. Advise the contractor of any inadequacies in the Subcontracting Plan.	<p>In sealed bidding, advise the bidder of the deficiency and request submission of a revised plan by a specific date.</p> <p>When using negotiation procedures, improvements in the plan may be negotiated during discussions. Never negotiate a goal upwards if it is apparent that a higher goal will significantly increase the Government's cost or seriously impede the attainment of acquisition objectives.</p>
6. Consider the Subcontracting Plan in making award decisions.	<p>In sealed bidding, find the bidder:</p> <ul style="list-style-type: none"><li>• Nonresponsive if the firm does not submit a plan incorporating the required elements within the time allotted.</li><li>• Nonresponsive if its Subcontracting Plan provides evidence that the firm does not intend to comply with its obligations under the Utilization of Small Business Concerns clause (FAR 52.219-8).</li></ul> <p>When using negotiation procedures, consider the Subcontracting Plan using the award criteria established in the solicitation (e.g., management, technical, or past performance factors).</p>

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## Part B: Evaluating Subcontracting Plans

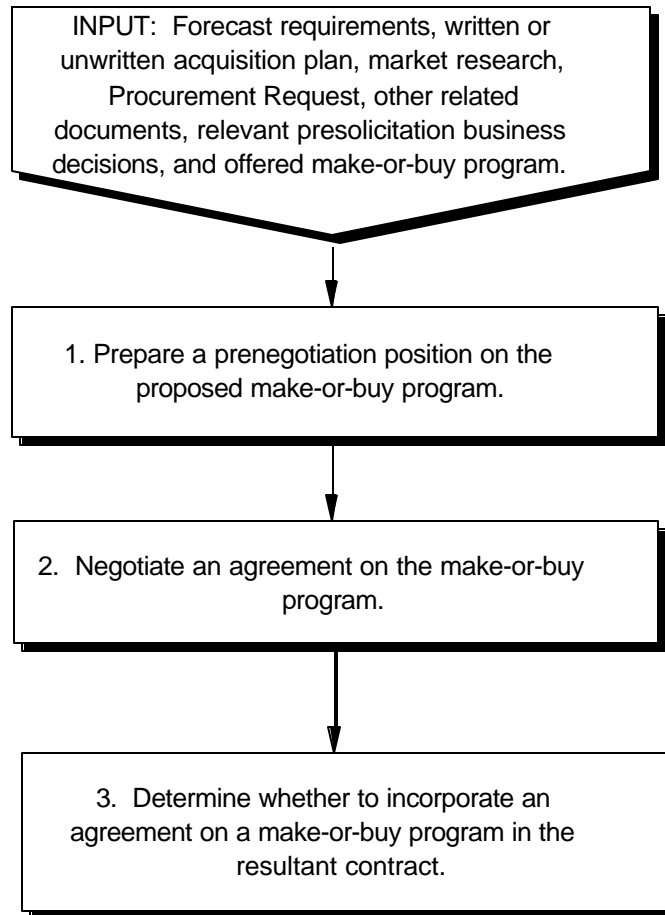
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Tasks	Related Standards
7. Notify affected Government organizations of contract award.	<p>After a contract or contract modification containing a Subcontracting Plan is awarded:</p> <ul style="list-style-type: none"><li>• Notify the SBA of the award by sending a copy of the award document to the Area Director, Office of Government Contracting, in the SBA Area Office for the area where the contract will be performed.</li><li>• Forward a copy of each commercial plan and any associated approvals to the Area Director, Office of Government Contracting, in the SBA Area Office for the area where the contractor's headquarters is located.</li><li>• Give to the assigned SBA Resident Procurement Center Representative (if any) a copy of:<ul style="list-style-type: none"><li>- Any Subcontracting Plan submitted in response to a sealed bid solicitation; and</li><li>- The final negotiated Subcontracting Plan incorporated into a negotiated contract or contract modification.</li></ul></li></ul>

# UNIT 18 SUBCONTRACTING REQUIREMENTS

## Part C: Make-Or-Buy Programs

*September 2002*





# UNIT 18 SUBCONTRACTING REQUIREMENTS

## Part C: Make-Or-Buy Programs

*September 2002*

Tasks	Related Standards
1. Prepare a prenegotiation position on the proposed make-or-buy program.	<p>Consider</p> <ul style="list-style-type: none"><li>• The effect of the proposed make-or-buy program on price, quality, delivery, and risk.</li><li>• The contractor's justification for performing the work in a way that differs significantly from its normal operations.</li><li>• Whether the contractor's recommended program involves an additional cost not reflected in the contract price).</li><li>• The impact of the contractor's projected plant work loading on indirect costs.</li><li>• The potential for greater utilization of small business, veteran-owned small business (including service-disabled veteran-owned small business), HUBZone small business, and women-owned small business concerns.</li><li>• The contractor's make-or-buy history.</li><li>• The scope of proposed subcontracts, including the type and level of technical effort involved.</li><li>• Other factors such as future requirements, engineering, tooling, starting load costs, market conditions, technical superiority, and the availability of personnel and materials.</li></ul> <p>Normally do not agree to proposed "make items":</p> <ul style="list-style-type: none"><li>• When the products or services are available -- quality, quantity, delivery, and other essential factors considered -- from another firm at equal or lower prices;</li><li>• Unless:<ul style="list-style-type: none"><li>- An overall lower Governmentwide cost would result or it is otherwise in the best interest of the Government; and</li><li>- If the contract is fixed-price incentive or cost-plus-incentive-fee, the contract identifies these items and states that they are subject to equitable price reduction if the contractor proposes to reverse the "make" decision.</li></ul></li></ul>

# UNIT 18 SUBCONTRACTING REQUIREMENTS

## Part C: Make-Or-Buy Programs

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Tasks	Related Standards
2. Negotiate an agreement on the make-or-buy program.	<p>Normally do not agree to proposed "make items":</p> <ul style="list-style-type: none"><li>• When the products or services are available -- quality, quantity, delivery, and other essential factors considered -- from another firm at equal or lower prices;</li><li>• Unless:<ul style="list-style-type: none"><li>- An overall lower Governmentwide cost would result; or</li><li>- It is otherwise in the best interest of the Government; and</li></ul></li><li>• If the contract is fixed-price incentive or cost-plus-incentive-fee, the contract identifies these items and states that they are subject equitable price reduction if the contractor proposes to reverse the "make" decision..</li></ul>
3. Determine whether to incorporate an agreement on a make-or-buy program in the resultant contract.	<p>Incorporate the make-or-buy program in negotiated contracts for:</p> <ul style="list-style-type: none"><li>• Major systems or their subsystems or components, regardless of contract type; or</li><li>• Other supplies and services if:<ul style="list-style-type: none"><li>- The contract is a cost-reimbursement contract, or a cost-sharing contract in which the contractor's share of the cost is less than 25 percent; and</li><li>- The Contracting Officer determines that technical or cost risks justify Government review and approval of changes or additions to the make-or-buy program.</li></ul></li></ul>